

THE UNITED REPUBLIC OF TANZANIA



No. 18 OF 1969

I ASSENT,

Julius K. Nyerere
President

10. APRIL, 1969

An Act to amend the Magistrates Courts Act, 1963

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Magistrates Courts (Amendment) Act, 1969, shall be read as one with the Magistrates Courts Act, 1963 (hereinafter referred to as the principal Act) and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title,
construction
and
commence-
ment
Cap. 537

2. Section 8 of the principal Act is hereby repealed and replaced by the following sections:—

Section 8
repealed and
replaced

“Assessors
in primary
courts

8.—(1) In every proceeding in a primary court the court shall sit with two assessors (or such greater number as an appropriate judicial authority may direct).

(2) All matters before a primary court shall, in the event of a difference of opinion between a magistrate and the assessors or any of them, be decided by the votes of a majority of the magistrate and the assessors present, and in the event of an equality of votes the magistrate shall have a casting vote in addition to his deliberative vote.

(3) Where an assessor is present at the commencement of any proceeding and is subsequently, by reason of ill-health or other good cause, unable to continue to perform his functions as an assessor, the proceeding shall not be invalid by reason of his absence and the magistrate may continue to hear and determine the proceeding with the remaining assessor or assessors, as the case may be:

Provided that in no case shall a magistrate proceed to hear and determine any proceeding in the absence of all the assessors.

"Assessors
in other
subordinate
courts

8A.—(1) In any proceeding in a district court or the court of a resident magistrate in which any rule of customary law or Islamic Law is in issue or relevant, the court may, and when directed by an appropriate judicial authority shall, sit with an assessor or assessors; and every such assessor shall be required, before judgment, to give his opinion as to all questions relating to customary law or Islamic Law in issue in, or relevant to, the proceeding, and the magistrate shall record the same.

(2) In determining any proceeding in which a district court or a court of a resident magistrate sits with assessors, the magistrate shall not be bound to conform with the opinions of the assessors, but in any case in which he does not so conform the magistrate shall record his reasons therefor in writing."

New section
15A added

3. The principal Act is amended by adding immediately below section 15 the following new section:—

"Reference
to arbitration

15A.—(1) A primary court may, with the consent of all the parties to a proceeding of a civil nature, refer the matter in dispute to an Arbitration Tribunal for determination.

(2) The Minister may make rules—

- (a) providing for the establishment of Arbitration Tribunals;
- (b) providing for the composition and jurisdiction of Arbitration Tribunals;
- (c) providing for and regulating reference to Arbitration Tribunals without intervention of court;
- (d) regulating the practice and procedure of Arbitration Tribunals;
- (e) providing for the enforcement of awards made by Arbitration Tribunals;
- (f) providing for appeals against awards made by Arbitration Tribunals and restricting the right to such appeals;
- (g) providing for any matter which in his opinion is necessary to provide or regulate reference to Arbitration Tribunals."

Passed in the National Assembly on the twenty-sixth day of March, 1969.


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Clerk of the National Assembly